

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA	:	
	:	
v.	:	1:20CR188-1
	:	
ANDY JOSEPH CLEMENTS	:	

RESPONSE BY UNITED STATES TO DEFENDANT'S  
MOTION FOR EARLY TERMINATION OF SUPERVISION

NOW COMES the United States of America, by and through Sandra J. Hairston, United States Attorney for the Middle District of North Carolina, and files this response to Defendant Andy Joseph Clement's motion for early termination of supervised release. (ECF No. 2).

Following his conviction in the Eastern District of North Carolina for conspiracy to distribute and possess with the intent to distribute methamphetamine, in violation of 21 U.S.C. §§ 846 and 21 U.S.C. §§ 841(b)(1)(C), that Court sentenced him to 18 months of imprisonment, followed by ten (10) years of supervised release. (ECF No. 6 at 1). On June 9, 2020, jurisdiction was transferred from the Eastern District of North Carolina to the Middle District of North Carolina. (*Id.*).

Clements was released from custody on August 22, 2018. *See* BOP Inmate Locator, at <https://www.bop.gov/inmateloc/> (last accessed Jan. 2, 2024);

*see also* ECF No. 6 at 1-2. On December 6, 2023, Clements filed his current motion seeking early termination of supervision. (ECF No. 2).

## DISCUSSION

Under the provisions of 18 U.S.C. § 3583(e), a district court has the discretion to terminate a defendant's term of supervised release at any time after completion of one year of supervision, if, after considering the pertinent factors set forth in 18 U.S.C. § 3553(a), the court finds that termination is warranted by the conduct of the defendant and the interest of justice. *United States v. Pregent*, 190 F.3d 279, 283 (4th Cir. 1999). Early termination may be justified where the defendant has demonstrated "exceptionally good behavior that makes the previously imposed term of supervised release 'either too harsh or inappropriately tailored to serve' general punishment goals." *Folks v. United States*, 733 F. Supp. 2d 649, 651 (M.D.N.C. 2010) (quoting *United States v. Lussier*, 104 F.3d 32, 36 (2d Cir. 1997)). Yet even "full compliance with the terms of supervised release is what is expected of a person under the magnifying glass of supervised release and does not warrant early termination." *Id.* at 652 (quoting *United States v. McKay*, 352 F. Supp. 2d 359, 361 (E.D.N.Y. 2005)).

In this case, Clements is statutorily eligible for early termination, having completed over one year of supervision as required by 18 U.S.C. § 3583(e). *See*

BOP Inmate Locator, *supra*; *see also*, ECF No. 6 at 1-2. On December 6, 2023, Clements filed his current motion for early termination of supervised release citing numerous factors, including his positive strides while on supervision including his employment, volunteer work, and family relationships as well as indicating he “will never ever commit another crime.” (ECF 2 at 2).

According to USPO, Clements has been fully compliant with the conditions of supervised release which commenced on August 22, 2018. (ECF No. 6 at 1-2). He has resumed operation of his fitness business following his release and has used that business to positively impact his community by offering free and discounted memberships. (*Id.* at 2). Clements has maintained stable housing, continued family relationships, provided negative controlled substance tests, and successfully completed more than five of the ten years of supervised release imposed. (*Id.*). Of note, his positive adjustment to supervised release resulted in Clement’s case being transferred to the low-intensity supervision caseload on September 30, 2019, where has continued successfully, presenting no problems and reporting as directed. (*Id.*).

Based on Clement’s performance to date, the Probation Office in the Middle District of North Carolina has no objection to early termination. (*Id.*). The United States concurs.

Therefore, in light of the foregoing, including Clement's performance on supervision and in the interest of justice, the United States does not object to early termination.

This the 2nd day January, 2024.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 2, 2024, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, and a copy was mailed to the following non-CM/ECF participant:

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